

CORRECTIONS

Budget Summary						FTE Position Summary				
Fund	2010-11 Adjusted Base	Governor		2011-13 Change Over Base Year Doubled		2010-11	Governor		2012-13 Over 2010-11	
		2011-12	2012-13	Amount	%		2011-12	2012-13	Number	%
GPR	\$1,145,678,800	\$1,092,180,900	\$1,155,644,500	-\$43,532,200	- 1.9%	9,679.57	9,654.22	9,654.22	- 25.35	- 0.3%
FED	2,809,300	2,645,700	2,590,400	- 382,500	- 6.8	3.00	0.00	0.00	- 3.00	- 100.0
PR	150,218,200	113,814,100	114,283,200	- 72,339,100	- 24.1	909.65	606.15	598.15	- 311.50	- 34.2
SEG	313,400	257,500	257,500	- 111,800	- 17.8	2.00	1.00	1.00	- 1.00	- 50.0
TOTAL	\$1,299,019,700	\$1,208,898,200	\$1,272,775,600	-\$116,365,600	- 4.5%	10,594.22	10,261.37	10,253.37	- 340.85	- 3.2%

Budget Change Items

Departmentwide

1. STANDARD BUDGET ADJUSTMENTS

Governor: Provide \$54,992,000 GPR, -\$162,900 FED and -3.0 FED positions, \$5,810,700 PR, and -\$1,300 SEG in 2011-12, and \$54,992,000 GPR, -\$218,900 FED, \$5,351,500 PR and -8.0 PR positions, and -\$1,300 SEG in 2012-13 for the following adjustments to the base budget: (a) turnover reduction

(-\$10,426,400 GPR, and -\$752,800 PR annually); (b) removal of noncontinuing items (-\$609,700 GPR, -\$168,000 FED and -3.0 FED positions in 2011-12, -\$609,700 GPR, -\$224,000 FED and -3.00 FED positions, and -\$459,200 PR and -8.00 PR positions in 2012-13); (c) full funding of salaries and fringe benefits (\$18,694,900 GPR, \$4,600 FED, \$2,988,600 PR, and -\$1,300 SEG annually); and (d) night and weekend differential (\$8,443,800 GPR, \$500 FED, and \$698,000 PR annually). In addition, request overtime of \$38,889,400 GPR and \$2,876,900 PR annually. In the calculation of full funding of salaries and fringe benefits, costs associated with overtime are removed. Thus, the overtime amounts represent the estimated total cost for overtime. In 2010-11, \$30,460,000 was budgeted for corrections overtime costs.

	Funding	Positions
GPR	\$109,984,000	0.00
FED	- 381,800	- 3.00
PR	11,162,200	- 8.00
SEG	- 2,600	0.00
Total	\$120,761,800	- 11.00

2. INCREASE EMPLOYEE CONTRIBUTIONS FOR PENSIONS AND HEALTH INSURANCE

Governor: Delete \$42,643,300 in 2011-12 and \$42,642,600 in

GPR	- \$77,716,400
FED	- 700
PR	- 7,558,000
SEG	- 10,800
Total	- \$85,285,900

2012-13 to reflect fringe benefit cost reductions associated with increased state employee contributions for Wisconsin Retirement System (WRS) benefits and health insurance coverage. The reductions would include \$38,858,200 GPR, \$3,779,000 PR, and \$5,400 SEG annually, and \$700 FED in 2011-12. The calculation of retirement savings is based on employee WRS contributions equal to 5.8% of salary. Health insurance cost reductions are based on employees paying an average of approximately 12.6% of total premium costs, compared to the current average of approximately 6% of costs.

3. ELIMINATE LONG-TERM VACANCIES

Governor: Delete \$4,305,800 (all funds) and 75.45 positions annually to reflect the elimination of long-term vacant positions under the bill. The reductions would include \$3,937,000 GPR and 67.95 GPR positions, \$319,600 PR and 6.5 PR positions, and \$49,200 SEG and 1.0 SEG positions annually. Funding and position reductions are associated with positions that have been vacant for 12 months or more.

	Funding	Positions
GPR	- \$7,874,000	- 67.95
PR	- 639,200	- 6.50
SEG	<u>- 98,400</u>	<u>- 1.00</u>
Total	- \$8,611,600	- 75.45

4. DEBT SERVICE REESTIMATE

Governor: Provide funding of \$22,789,800 GPR and -\$341,500 PR in 2011-12 and \$24,249,800 GPR and -\$336,700 PR in 2012-13 to reflect the current law reestimate of GPR debt services costs on state general obligation bonds and commercial paper debt issued for the Department, and reestimated PR debt service. The reestimates include: (a) adult corrections, \$21,461,600 in 2011-12 and \$22,737,100 in 2012-13; (b) prison industries, -\$341,500 PR in 2011-12 and -\$336,700 PR in 2012-13; and (c) juvenile corrections, \$1,328,200 in 2011-12 and \$1,512,700 in 2012-13.

GPR	\$47,039,600
PR	<u>- 678,200</u>
Total	\$46,361,400

5. GPR DEBT RESTRUCTURING -- DEBT SERVICE

Governor: Decrease funding by \$62,864,700 in 2011-12 and increase funding by \$2,762,500 in 2012-13 to reflect the changes estimated GPR debt service costs associated with the proposed restructuring of general obligation bond and commercial paper GPR principal amounts that would otherwise be paid off in 2011-12. Under the bill, the state would issue refunding bonds to restructure a portion of its outstanding general obligation GPR principal debt and would rollover the principal due on its outstanding commercial paper in 2011-12. The increase in debt service for 2012-13 is associated with the initial interest amount due on the additional debt issued to replace the restructured 2011-12 principal repayment. (See "Building Commission" for additional information regarding this provision.)

GPR	- \$60,102,200
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6. RENT

Governor: Provide \$216,000 GPR and \$26,900 PR in 2011-12, and \$542,600 GPR and \$77,800 PR in 2012-13 for rental costs on a

GPR	\$758,600
PR	<u>104,700</u>
Total	\$863,300

departmentwide basis. Funding would be as follows: (a) Division of Management Services (-\$326,800 GPR and \$29,800 PR in 2011-12 and -\$199,800 GPR and \$49,200 PR in 2012-13); (b) Division of Adult Institutions (-\$500 GPR and \$9,900 PR in 2011-12 and -\$500 GPR and \$16,600 PR in 2012-13); (c) Division of Community Corrections (\$544,100 GPR and \$1,300 PR in 2011-12 and \$743,500 GPR and \$2,600 PR in 2012-13); (d) Secretary's Office (-\$500 GPR annually); (e) Earned Release Review Commission (-\$500 annually); and (f) Division of Juvenile Corrections (\$200 GPR and -\$14,100 PR in 2011-12 and \$400 GPR and \$9,400 PR in 2012-13).

7. TRANSFER FUNDING AND POSITIONS WITHIN DIVISION OF MANAGEMENT SERVICES

GPR	- \$7,000
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Governor: Reduce funding by \$200 in 2011-12 and \$6,800 in 2012-13 associated with transferring funding and positions between bureaus within the Division of Management Services (DMS). Under the bill, funding within DMS would be adjusted as follows: (a) DMS central office, -\$125,400 in 2011-12 and -\$132,000 in 2012-13 and -1.0 position annually; (b) Bureau of Personnel and Human Resources, -\$39,100 and -1.0 position annually; and (c) Bureau of Budget and Facilities Management, \$164,300 and 2.0 positions annually.

8. REPLACEMENT OF CLASSIFIED POSITIONS WITH UNCLASSIFIED POSITIONS

Governor: Delete 3.0 GPR classified positions and provide 3.0 GPR unclassified positions under the Department's general program operations appropriation.

Under 2011 Wisconsin Act 10, 38 classified positions are transferred into the unclassified service to serve as division administrators. Act 10 also redefined "administrators" to include "other managerial positions determined by an appointing authority." The State Budget Office indicates that personnel from three separate employment areas (attorney services positions, communications positions, and legislative liaison positions) will be moved from classified to unclassified service within the specified agencies. The revised unclassified positions were renamed as either chief legal advisors, communications directors, or legislative advisors. Individuals in these unclassified positions are at will employees appointed by the heads of the respective agencies.

The provisions in the 2011-13 biennial budget bill effectuate the intent of 2010 Wisconsin Act 10 in regards to the transfer of classified positions to unclassified positions.

9. REALIGNMENT AND REORGANIZATION OF FUNDING AND POSITIONS

Governor: Provide the transfer of GPR funding and positions between appropriations related to realignment, including: (a) \$276,100 GPR and 3.0 GPR positions annually for the Department's general program operations appropriation; (b) -\$276,100 GPR and -3.0 GPR positions annually from the services for community corrections appropriation; and (c) within the Becky Young Community Corrections appropriation, -\$840,700 GPR annually from the Division

of Adult Institutions and \$840,700 GPR annually to the Secretary's Office.

In addition, request the following transfers between appropriations related to reorganization: (a) \$13,321,000 PR from the Bureau of Finance and Administrative Services to the Bureau of Correctional Enterprises related to supplies and services and LTE staffing funding for the Department's central warehouse; and (b) \$20,000 GPR in supplies and services related to infirmary from the Dodge Correctional Institution to the Bureau of Health Services.

10. CHANGE THE ADULT GENERAL PROGRAM OPERATIONS APPROPRIATION FROM AN ANNUAL TO BIENNIAL APPROPRIATION

Governor: Change the Department's adult general program operations appropriation [s.20.410(1)(a)] from an annual appropriation to a biennial appropriation. By statute, annual appropriations are expendable only up to the amount shown in the appropriation schedule for the fiscal year in which the appropriation is made. At the end of the fiscal year, the unencumbered balances revert to the fund from which appropriated (in the case of Corrections' general program operations appropriation, this would be the general fund). For biennial appropriations, dollar amounts shown in schedule are the most reliable estimates of the amounts to be spent each fiscal year. However, unlike annual appropriations, unencumbered balances at the end of the first fiscal year of the biennium are transferred to the amounts for the second year of the biennium. At the end of the biennium, an unencumbered balances revert to the fund from which appropriated.

The bill would appropriate \$698.0 million in 2011-12 and \$693.5 million in 2012-13 to the Department's general program operations appropriation.

[Bill Section: 624]

11. PROGRAM REVENUE REESTIMATES

PR	- \$24,751,700
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Governor: Adjust program revenue estimates by -\$12,468,900 in 2011-12 and -\$12,282,800 in 2012-13 associated with the funding adjustments identified in the table below. The table identifies the program revenue appropriations that would be affected by this item, by program area, the base funding amounts for these appropriations, the funding changes that would be made to these appropriations under this item and other items in Corrections' budget, and the total funding that would be budgeted for these purposes under the bill.

<u>Purpose</u>	2010-11 <u>Base</u>	<u>2011-12</u>			<u>2012-13</u>		
		<u>Funding</u> <u>Adjustment</u>	<u>Other</u> <u>Agency</u> <u>Adjustments</u>	<u>Total</u>	<u>Funding</u> <u>Adjustment</u>	<u>Other</u> <u>Agency</u> <u>Adjustments</u>	<u>Total</u>
Prison Industries							
Badger State Industries	\$21,703,800	-\$6,071,000	-\$331,300	\$15,301,500	-\$5,937,700	-\$325,300	\$15,440,800
Correctional Farms	5,542,900	250,000	800	5,793,700	250,000	1,400	5,794,300
Correctional Institution Enterprises							
Inmate Activities & Employment	3,714,100	-900,000	15,700	2,829,800	-900,000	15,700	2,829,800
Central Generating Plant	4,965,900	-150,000	-32,800	4,783,100	-150,000	-32,800	4,783,100
Central Warehouse	13,886,800	-4,300,000	-32,300	9,554,500	-4,300,000	-32,200	9,554,600
Sex Offenders							
Sex Offender Management	824,800	230,000	-1,000	1,053,800	230,000	-1,000	1,053,800
Sex Offender Honesty Testing	570,800	-230,000	0	340,800	-230,000	0	340,800
Home Detention Services							
Bureau of Classification & Movement	697,400	-290,700	17,600	424,300	-290,700	18,000	424,700
Restitution							
Administration of Restitution	1,156,500	-436,400	-18,200	701,900	-436,400	-17,300	702,800
Juvenile Corrections							
Fuel and Utilities	2,018,800	<u>-570,800</u>	-785,800	1,146,500	<u>-518,000</u>	-483,600	1,191,300
Total PR Reestimates		-\$12,468,900			-\$12,751,700		

12. PENALTY SURCHARGE REDUCTIONS

PR	- \$547,200
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Governor: Reduce expenditure authority by \$273,200 in 2011-12 and \$274,000 in 2012-13, as follows: (a) -\$244,300 in 2011-12 and \$245,100 in 2012-13 under the correctional officer training appropriation; and (b) -\$28,900 annually under the victim services and programs appropriation. The reduction represents a 10% reduction to the appropriation after standard budget adjustments. Require all unencumbered balances in the appropriation at the end of each fiscal year to revert to the "criminal justice program support" appropriation under the Department of Justice.

[Bill Sections: 626 and 627]

Adult Institutions

1. ADULT CORRECTIONAL FACILITY POPULATIONS

Governor: Estimate an average daily population (ADP) in adult correctional facilities (correctional institutions and centers) and contract beds of 21,610 in 2011-12 and 21,217 in 2012-13. The following table identifies the estimated distribution of this population.

	March 18, 2011 <u>Actual Population</u>	<u>Average Daily Population</u>	
		<u>2011-12</u>	<u>2012-13</u>
Males			
Institutions	18,466	17,725	17,383
Centers	1,495	1,793	1,759
Wisconsin Resource Center	332	344	344
Contract Beds*	388	540	530
Females			
Women's Correctional System	1,197	1,166	1,156
Wisconsin Resource Center	<u>n/a</u>	<u>42</u>	<u>45</u>
Total Population	21,878	21,610	21,217

*Contract bed populations include inmates held in federal facilities and in Wisconsin county jails.

2. POPULATION AND INFLATIONARY COST INCREASES

GPR	\$18,163,300
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Governor: Provide \$7,764,800 in 2011-12 and \$10,398,500 in 2012-13 to reflect population-related cost adjustments for prisoners in facilities operated by the Division of Adult Institutions, as follows: (a) \$1,074,700 in 2011-12 and \$1,611,600 in 2012-13 for food costs; (b) \$3,713,800 in 2011-12 and \$3,704,200 in 2012-13 for variable nonfood costs, such as clothing, laundry, inmate wages, and other supplies; and (c) \$2,976,300 in 2011-12 and \$5,082,700 in 2012-13 for inmate health care. The bill assumes that the per capita annual costs for inmate health care will increase from an estimated \$2,655 in 2010-11 to \$2,749 in 2011-12 and to \$2,845 in 2012-13. Health care costs include pharmaceutical costs, third party administrator costs, and contracting costs with the University Hospital and Clinics, the UW Medical Foundation, Waupun Memorial Hospital, and other community hospitals.

3. DIVISION OF ADULT INSTITUTIONS POPULATION MANAGEMENT

GPR	- \$52,655,900
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Governor: Delete \$22,701,100 in 2011-12 and \$29,954,800 in 2012-13 related to a projected decline in the adult prison population. Funding was calculated based on the current daily contract rate of \$51.46 and assuming a reduced population of 1,208 in 2011-12 and 1,593 in 2012-13. Under this provision, funding would be reduced as follows: (a) contract beds,

-\$3,766,900 in 2011-12 and -\$3,756,600 in 2012-13 associated with 200 fewer contract beds; (b) food, -\$4,666,100 in 2011-12 and -\$7,461,100 in 2012-13; and (c) variable nonfood costs, -\$14,268,100 in 2011-12 and -\$18,737,100 in 2012-13.

4. FUEL AND UTILITIES REESTIMATE

GPR	- \$1,446,600
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Governor: Delete \$1,445,100 in 2011-12 and \$1,500 in 2012-13 as a result of reestimating fuel and utility costs. Current base funding for fuel and utilities in the Department is \$37,017,900 annually.

5. FULL FUNDING -- FEMALE MENTAL HEALTH INITIATIVE AND FEMALE UNIT AT THE WISCONSIN RESOURCE CENTER

GPR	\$381,800
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Governor: Provide \$190,900 annually to fully fund female mental health programs, including: (a) \$166,300 annually for enhanced mental health services for female inmates at Taycheedah Correctional Institution; and (b) \$24,600 annually for security staffing for the new female inmate unit at the Wisconsin Resource Center. Funding and positions for these initiatives were provided in the 2009-11 budget act. Under this provision, non-salary program costs funded for less than a full year in 2010-11, would be fully funded for the 2011-13 biennium.

Adult Community Corrections

1. BECKY YOUNG FULL FUNDING -- MENTAL HEALTH CONDITIONAL RELEASE PROGRAMS

GPR	\$1,985,600
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Governor: Provide \$992,800 annually to fully fund a male mental health conditional release program (\$580,300 annually) and a female mental health conditional release program (\$412,500 annually) under the Becky Young community corrections appropriation. The male conditional release program would cost a total of \$1,250,000 annually, serving an average daily population of 52 offenders. The female conditional release program would cost a total of \$900,000 annually, serving an average daily population of 36 offenders.

The Becky Young community corrections appropriation funds community services established by the Department that have the goals of increasing public safety, reducing the risk of reoffending, and reducing by 2010-11 the recidivism rate of persons on probation, parole, or extended supervision for a felony conviction.

2. FULL FUNDING FOR 2009 ACT 100 -- OPERATING WHILE INTOXICATED (OWI)

GPR	\$1,097,400
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Governor: Provide \$548,700 annually for full funding of salary and fringe benefit costs for limited-term employee (LTE) positions at the Department's monitoring center, associated with implementation of 2009 Act 100. On March 16, 2010, the Joint Committee on Finance approved \$1,953,100 GPR for the supervision of second and third offense OWI offenders, including \$636,300 for LTE staffing costs. Funding for staffing was provided at three-, six-, or nine-month implements in 2010-11, depending on the position. With full funding, total funding for LTE staffing would be \$1,185,000 annually.

3. CONVERSION OF LIMITED-TERM EMPLOYEE MONITORING CENTER POSITIONS TO PERMANENT STATUS

	Funding	Positions
GPR	\$383,900	27.60

Governor: Provide \$76,800 in 2011-12 and \$307,100 in 2012-13 and 27.6 positions annually to convert limited-term employee (LTE) positions to permanent positions at the Department's Division of Community Corrections' Monitoring Center. Funding assumes that staffing costs (\$341,000 in 2011-12 and \$1,363,700 in 2012-13) would be offset by a reduction in LTE staffing costs (-\$264,200 in 2011-12 and -\$1,056,600 in 2012-13). Funding for LTEs was initially provided from the Joint Committee on Finance's supplemental appropriation for funding state agency costs associated with 2009 Act 100 (modifications to the state's operating while intoxicated laws).

4. FULL FUNDING OF SEX OFFENDER MANAGEMENT COSTS

GPR	\$400,200
PR	<u>16,200</u>
Total	\$416,400

Governor: Provide \$200,100 GPR and \$8,100 PR annually to fully fund supplies and services costs associated with positions provided in the 2009-11 budget for the management of the Department's sex offender populations. In the 2009-11 budget, staffing and funding were provided for the Department's monitoring center, community corrections, sex offender registry, and presentence investigations. Under this provision, non-salary program costs funded for less than a full year in 2010-11, would be fully funded for the 2011-13 biennium.

5. VICTIM INFORMATION AND NOTIFICATION EVERYDAY (VINE) FUNDING

PR	\$1,204,500
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Governor: Provide \$511,900 in 2011-12 and \$692,600 in 2012-13 for the Department's Office of Victim Services and Programs to support county costs associated with the state-wide automated Victim Information and Notification Everyday (VINE) and VINE Protective Order services. The funding for VINE would be derived through revenue from the justice information system surcharge. [See "Administration -- Justice Information System Surcharge Overview" for more information.]

The Department of Corrections received a \$1.2 million grant from the U.S. Department of Justice to implement a victim notification service in all Wisconsin counties and in the state Department of Health Services. Funding from the grant ends on June 30, 2011. According to the Department, funding would support continued implementation of the VINE system in all counties, and create the VINE Protective order service, which would provide timely notifications to current restraining order status information in English, Spanish, and Hmong.

[Bill Section: 625]

Sentencing Modifications

1. REPEAL AND MODIFY 2009 ACT 28 SENTENCING MODIFICATIONS

Governor: Modify the sentencing modification provisions that were created in 2009 Act 28, as follows:

Repealed Sentencing Provisions

The bill would repeal the following Act 28 sentencing modification provisions.

a. *Positive Adjustment Time.* The bill would delete "positive adjustment time," which allows certain inmates to earn earlier release from prison by not violating prison regulations and not refusing or neglecting to perform required or assigned duties.

Under the Act 28 provision, an inmate convicted of a non-violent Class F to I felony, and not considered high-risk, may earn one day of positive adjustment time for every two days served without violation of prison regulation, or refusal or neglect to perform required or assigned duties. Inmates convicted of violent Class F to I felonies, or non-violent Class F to I felonies considered high-risk, may earn one day of positive adjustment time for every three days served. Inmates convicted of Class C to E felonies may earn one day of positive adjustment time for every 5.7 days served. Individuals who are sentenced for certain offenses are excluded from positive adjustment time, including all sex offenses requiring registration with the sex offender registry.

When an inmate convicted of a non-violent Class F to I felony, and not considered high risk, is within 90 days of release to extended supervision, the Department must notify the sentencing court of its intent to modify the inmate's sentence and release the inmate to extended supervision. If the court decides to hold a review hearing, the court may accept the Department's determination, reject the Department's determination, or order the inmate to remain in prison for a period of time not exceeding the inmate's term of confinement. If the court does not hold a hearing or accepts the Department's determination, the Department must release the inmate to extended supervision.

For inmates convicted of violent Class F to I felonies, or non-violent Class F to I felonies considered high-risk, or Class C to E felonies, inmates may petition the Earned Release Review Commission (ERRC) for release to extended supervision when they have served the term of confinement portion of the sentence, less positive adjustment time earned. Within 90 days of release to extended supervision, the ERRC must notify the sentencing court of its intent to modify the inmate's sentence and release the inmate to extended supervision. If the court decides to hold a review hearing, the court may accept the ERRC's determination, reject the ERRC's determination, or order the inmate to remain in prison for a period of time not exceeding the inmate's term of confinement. If the court does not hold a hearing, or accepts the ERRC's determination, the ERRC may proceed to release the inmate to extended supervision.

If the inmate is released to extended supervision, the Department or ERRC must reduce the term of confinement in prison portion of the sentence, and increase the extended supervision portion of the sentence, so the overall sentence length does not change.

Under the bill, inmates who have already earned positive adjustment time would be allowed to petition the sentencing court to adjust the sentence if Corrections determines that the inmate has served the confinement portion of his or her sentence, less positive adjustment time earned. Within 60 days of receipt of the petition, the sentencing court could either deny the petition or hold a hearing and issue an order related to the inmate's petition. At the hearing, the court may consider: (a) the inmate's conduct in prison; (b) the inmate's level of risk of reoffending, based on a verified, objective instrument; (c) and the nature of the offense committed. If the court determines that the inmate earned positive adjustment time, the court may reduce the term of confinement in prison, less up to 30 days, and must lengthen the term of extended supervision, so the overall sentence length does not change.

Under law in existence prior to Act 28, an inmate serving a bifurcated sentence, other than for a Class B felony, may petition the sentencing court adjust his or her sentence if the inmate has served at least 75% of a Class F to I felony, or 85% of a Class C to E felony ("75%-85% bifurcated sentence modification provision"). Act 28 provided that the 75%-85% bifurcated sentence modification provision only applies to inmates serving bifurcated sentences imposed before October 1, 2009. Under the bill, the "before October 1, 2009" language would be deleted, restoring the law for inmates with sentences imposed on or after October 1, 2009. Further, the bill would provide that current inmates who petition for release under the positive adjustment time provisions described above may not petition for release under the 75%-85% bifurcated sentence modification provision.

b. *Certain Early Releases.* Act 28 provided that the Department may release inmates to extended supervision if all the following conditions are met: (a) the inmate is serving time for a non-violent Class F to I felony; (b) the prison social worker or extended supervision agent of record has reason to believe that the person will be able to maintain himself or herself while not confined without engaging in assaultive activity; and (c) the release to extended supervision date is not more than 12 months before the person's extended supervision eligibility date. If an inmate is released early, his or her term of extended supervision is increased so the overall length of sentence does not change. The bill would repeal this provision.

c. *Risk Reduction.* Act 28 created the risk reduction program which allows the court to order a person to serve a risk reduction sentence if: (a) the court determines that a risk reduction sentence is appropriate; and (b) the person agrees to cooperate in an assessment of his or her criminogenic factors and risk of reoffending, and to participate in programming or treatment the Department develops for the person. If the inmate participates in the program, and the Department determines that the inmate has completed the programming or treatment, and the inmate maintained a good conduct record during confinement, the Department must release the inmate to extended supervision when he or she has served not less than 75% of the term of confinement. Unlike the positive adjustment time or certain early release provisions, the inmate's term of extended supervision is not lengthened. As a result, an offender's overall sentence length is reduced under a risk reduction sentence. The bill would repeal this provision.

d. *Earned Release and Challenge Incarceration Programs.* Act 28 expanded the earned release program from a substance abuse treatment program to a "rehabilitation" program, and the challenge incarceration program to include not just inmates with substance abuse treatment needs, but also inmates with one or more treatment needs not related to substance use that is directly related to his or her criminal behavior. The bill would repeal these expansions and return the programs to treating eligible inmates with substance abuse treatment needs.

e. *Earned Release Review Commission.* Act 28 renamed the Parole Commission the Earned Release Review Commission (ERRC) and expanded the Commission's duties. Under law in existence prior to Act 28, the Parole Commission had authority to grant discretionary parole to inmates serving an indeterminate sentence (the felony sentencing system prior to December 31, 1999). Act 28 expanded the Commission's authority to consider petitions to adjust offenders' sentences who were convicted under the truth-in-sentencing laws on or after December 31, 1999. The bill would delete the expanded authority provided to the Commission under Act 28 and revert the Commission's name back to the Parole Commission.

f. *Extended Supervision Discharged.* Act 28 authorized the Department to discharge a person from extended supervision after he or she has served two years of extended supervision, if the person has met the conditions of extended supervision and the reduction is in the interests of justice. The bill would repeal this provision.

g. *Discharge from Probation.* Act 28 authorized the Department to modify a person's period of probation and discharge the person from probation if the person has completed 50% of his or her period of probation. The bill would delete this provision.

Modified Sentencing Provision

Further, Act 28 modified previous law related to bifurcated sentences for older inmates and inmates who have terminal conditions. Under the law prior to Act 28, an inmate serving a bifurcated sentence for a crime, other than a Class B felony, could seek to modify his or her sentence if the inmate: (a) was 65 years of age or older and served at least five years of the term of confinement; (b) was 60 years of age or older and served at least 10 years of the term of confinement; or (c) had a terminal condition. The inmate could petition the institution's program review committee for modification. The program review committee could deny the petition or approve and refer it to the sentencing court. If the sentencing court approved the petition and the

inmate was released early, the term of extended supervision was increased so that the total length of the bifurcated sentence did not change.

Act 28 modified the law to allow inmates serving life sentences or Class B felonies to be eligible for release under these provisions. Further, the provision related to inmates with terminal conditions was replaced with provisions related to "extraordinary health conditions." Extraordinary health condition is defined as a condition afflicting a person, such as advanced age, infirmity, or disability of the person or a need for medical treatment or services not available within a correctional institution. In addition, inmates who meet the age and/or health criteria now petition the Earned Release Review Commission (ERRC) for sentence modification, rather than the program review committee. The ERRC, rather than the sentencing court, may modify the inmate's sentence. If the inmate is released early, the term of extended supervision is increased so that the total length of the bifurcated sentence does not change.

Under the Governor's recommendations, the Act 28 provisions would be repealed and the prior law would be restored, except that instead of terminal conditions, as provided under prior law, the bill would retain the "extraordinary health conditions" definition.

Initial Applicability Dates

The bill specifies that the provisions would first apply to persons sentenced on December 31, 1999, except for the positive adjustment time provisions, which would not apply to the positive adjustment time earned by persons who were sentenced on or after October 1, 2009, but before the effective of the bill.

Retained Sentencing Provision

The bill does not repeal all of the sentencing modification provisions provided in Act 28. Under law in existence prior to Act 28, if a person released to extended supervision violated a condition of extended supervision, the reviewing authority (the Division of hearings and Appeals in the Department of Administration or Corrections) could revoke the person's extended supervision. If revoked, the person would be returned to the sentencing court, where the court must order the person to be returned to prison for any specified period of time that does not exceed the time remaining on the bifurcated sentence. Act 28 provided that, if a person's extended supervision is revoked as a result of a violation of his or her supervision, the reviewing authority, rather than the court, will order the person to return to prison for any specified period of time that does not exceed the time remaining on the sentence. This provision is not affected by the bill.

According to the Department, 479 offenders have been released under the Act 28 provisions between the period of October 1, 2009, and March 3, 2011.

[Bill Sections: 82, 85, 100, 341, 629, 630, 806, 2759, 2995 thru 2998, 3015 thru 3082, 3485, 3486, 3511, 3535 thru 3538, 3542 thru 3546, 3553 thru 3558, 3560, and 9311(1)]

Juvenile Corrections

1. JUVENILE POPULATION ESTIMATES

Governor: Estimate the juvenile correctional facility average daily population (ADP) to be 551 annually as shown in the table below. On March 18, 2011, 350 juveniles were under state supervision in a secured correctional facility. The population projections include juveniles funded under the serious juvenile offender (SJO) program. Under the bill, the population projections in the table are used in the calculation of daily rates for each type of care.

Average Daily Population

	March 18, 2011 <u>Actual Population*</u>	<u>Projected ADP</u>	
		<u>2011-12</u>	<u>2012-13</u>
Juvenile Detention Facilities	350	340	340
Other Placements			
Corrective Sanctions	124	136	136
Aftercare Services	<u>59</u>	<u>75</u>	<u>75</u>
Subtotal -- Other	183	211	211
Total ADP	533	551	551
Alternate Care*		53	53

*Alternate care actual populations not available. The ADP for alternate care through February, 2011, was 71.

The juvenile detention facilities currently include Ethan Allen School, Lincoln Hills School, Southern Oaks Girls School, the SPRITE Program, and the Mendota Juvenile Treatment Center. Under the bill, Ethan Allen School and Southern Oaks Girls School would close, and juveniles would be moved to Lincoln Hills School, where the Copper Lake School for female juveniles would be created.

Under the corrective sanctions program, juveniles are placed in the community, following a period in a secured correctional facility, and are provided with intensive surveillance. In addition, for each corrective sanctions slot, an average of not more than \$3,000 annually is provided to purchase community-based treatment services.

Aftercare services include juveniles under state supervision following release from a juvenile correctional facility. Placement may be in an alternate care setting, a relative's home, or the juvenile's own home.

Alternate care includes residential care centers for children and youth, group homes, foster homes, and treatment foster homes. The average daily population for alternate care is a subset of aftercare services.

2. CLOSURE OF ETHAN ALLEN AND SOUTHERN OAKS GIRLS SCHOOL AND CREATION OF COPPER LAKE SCHOOL

	Funding	Positions
GPR	\$3,510,000	15.00
PR	- 46,448,900	- 284.00
Total	- \$42,938,900	- 269.00

Governor: Delete \$23,281,600 PR in 2011-12 and \$23,167,300 PR in 2012-13 and 284.0 positions annually associated with the Ethan Allan School (EAS) and Southern Oaks School (SOGS). Provide \$1,800,000 GPR in 2011-12 and \$1,710,000 GPR in 2012-13 and 15.0 GPR positions annually for ongoing maintenance of the grounds and facilities for the closed schools. According to the Governor's Budget in Brief:

"The Department of Corrections has been unable to reduce operating expenses at juvenile correctional facilities enough to accommodate lower populations, resulting in an increasing deficit. To better manage funds and control escalation of the rates charged to counties who place juveniles in institutions, the Department will close Ethan Allen School in Waukesha County and move the juveniles to Lincoln Hills School in Lincoln County.

To further maximize savings, the Department of Corrections will close Southern Oaks Girls School in Racine County and transfer the female juveniles to Copper Lake School in Lincoln Hills."

Funding in the bill would include: (a) -\$22,986,500 PR in 2011-12 and -\$23,048,800 PR in 2012-13 and -269.25 PR positions annually to remove all funding and positions associated with Ethan Allen School; (b) -\$4,647,800 PR in 2011-12 and -\$4,733,700 PR in 2012-13 and -51.10 PR positions annually to remove all funding and positions associated with Southern Oaks Girls School; (c) \$4,390,300 PR in 2011-12 and \$4,654,400 PR in 2012-13 and 36.35 PR positions annually associated with expanding Lincoln Hills School (LHS) and creating the Copper Lake School; and (d) \$1,800,000 GPR and -\$37,600 PR in 2011-12, and \$1,710,000 GPR and -\$39,200 PR in 2012-13, and 15.0 GPR positions annually in juvenile corrections' central office.

The positions to be provided to maintain the grounds and facilities of the closed schools (\$1,800,000 GPR in 2011-12 and \$1,710,000 GPR in 2012-13) would include: (a) at Ethan Allen, 5.5 youth counselors (for grounds security), 5.0 power plant operators, 1.0 steamfitter, and 1.0 building and grounds superintendent; and (b) at Southern Oaks Girls school, 1.5 youth counselors and 1.0 facilities maintenance specialist. The positions to be provided to expand the Lincoln Hills School and create the Copper Lake School (\$4,390,300 PR in 2011-12 and \$4,654,400 PR in 2012-13) would include: 11.5 social workers, 8.5 youth counselors, 7.1 teachers, 1.25 financial specialists, 1.0 teacher assistant, 1.0 office associate, 1.0 nurse clinician, 1.0 electronics technology security position, 1.0 facilities repair worker, 1.0 inventory control coordinator, 1.0 volunteer coordinator, 0.5 supervising youth counselor, and 0.5 advanced practice nurse.

As a result of closing the facilities, the bill would delete statutory language requiring the Department of Administration (DOA) to ensure that Ethan Allan and Southern Oaks Girls School receive technical assistance for internet educational purposes, and instead provide the requirement for the new Copper Lake School. Also, the bill would delete statutory language requiring Corrections, with the approval from the Governor and DOA, to provide group

transportation, in the absence of convenient and public scheduled transportation, for employees of Ethan Allen School.

Regarding this provision, the Department of Corrections indicates: "In accordance with the DOC/DJC budget item, EAS and SOGS will be fully closed meaning all juveniles relocated to LHS and Copper Lake before July 1, 2011. Similar all staff will have moved to other positions or been laid off effective July 1, 2011, except the limited number of staff necessary to maintain both sites until such time as a determination regarding the future use or purpose of each site is made."

[Bill Sections: 337 and 804]

3. STATUTORY DAILY RATES

Governor: Under current law, daily rates for juvenile care in a given biennium are specified in statute by fiscal year for juvenile detention facilities, state aftercare supervision, and for each type of alternate care setting, including residential care centers for children and youth, group homes, treatment foster homes, and foster homes.

Under the bill, the following statutory daily rates would be established for the juvenile correctional facilities, corrective sanctions, and aftercare supervision. Further, the bill would delete the specified rates for residential care centers, group homes, treatment foster homes, and regular foster homes, and instead specify that the daily cost assessment for these placements be an amount equal to the amount the provider charges the Department.

	Statutory Rates 7-1-10 thru <u>6-30-11</u>	7-1-11 thru <u>6-30-12</u>	<u>Governor</u> 7-1-12 thru <u>6-30-13</u>
Juvenile Correctional Facilities*	\$275	\$284	\$289
Corrective Sanctions	103	99	100
Aftercare Supervision	41	40	40

*Including transfers from a juvenile detention facility to the Mendota Juvenile Treatment Center.

The proposed daily rates for juvenile facilities, corrective sanctions, and aftercare supervision are calculated on the basis of budgeted funding levels, anticipated average daily populations, and the number of days in the year.

[Bill Sections: 3000, 3001, and 3003 thru 3005]

4. POPULATION-RELATED COST ADJUSTMENTS

PR	- \$2,968,700
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Governor: Delete \$1,519,900 in 2011-12 and \$1,448,800 in 2012-13 to reflect population-related cost adjustments as follows: (a) -\$375,900 in 2011-12 and -\$363,600 in 2012-13 for food costs at juvenile correctional institutions; (b) -\$216,500 annually for variable

nonfood costs (such as laundry, clothing, and personal items) for institutionalized juveniles; and (c) -\$927,500 in 2011-12 and -\$868,700 in 2012-13 to reflect juvenile health costs.

5. ELIMINATE FUNDING AND POSITIONS FOR LONG-TERM VACANCIES

	Funding	Positions
PR	- \$1,414,400	- 13.00

Governor: Reduce funding by \$707,200 and 13.0 positions annually associated with long-term vacancies for the Division of Juvenile Corrections' juvenile operations, aftercare program, and corrections sanctions. The reductions would include: (a) -\$442,300 and -8.5 positions annually from the Division of Juvenile Corrections' central office; (b) -\$178,300 and -3.0 positions annually from the corrective sanctions program; and (c) -\$86,600 and -1.5 positions annually associated with aftercare services.

6. SERIOUS JUVENILE OFFENDER FUNDING

GPR	- \$7,766,300
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Governor: Decrease funding by \$3,429,400 in 2011-12 and \$4,336,900 in 2012-13 to reflect decreased costs associated with state-funded serious juvenile offenders (SJO). The estimated average daily population (ADP) for the SJO population would be 202 in 2011-12 and 182 in 2012-13. The SJO program ADP through October, 2010, was 219 (latest information available). Base funding for the program is \$18,621,600 annually. Under the bill, the following average daily populations (ADPs) for the SJO appropriation, are projected for the 2009-11 biennium:

Average Daily Population

<u>Type of Care</u>	<u>As of October, 2010</u>	<u>Serious Juvenile Offenders</u>	
		<u>2011-12</u>	<u>2012-13</u>
Juvenile Detention Facilities	95	84	83
Corrective Sanctions Program	79	78	65
Aftercare Supervision	<u>45</u>	<u>40</u>	<u>34</u>
Total ADP	219	202	182
Alternate Care*	51	42	35

*A subset of corrective sanctions and aftercare supervision programs that includes residential care centers, group homes, treatment foster homes, and certain supplemental living arrangements.

7. YOUTH AIDS APPROPRIATION REDUCTION

GPR	- \$19,668,200
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Governor: Reduce community youth and family aids (youth aids) funding by \$9,834,100 annually associated with a 10% reduction to supplies and other nonpersonnel costs. Revise the calendar year allocations of youth aids to reflect adjusted distributions for the 2011-13 biennium, as follows: (a) \$45,478,000 from the last six months of 2011; (b) \$90,956,100 for 2012; and (c) \$45,478,000 for the first six months of 2013. Total youth aids funding in 2010-11 is

\$100,790,200 (\$98,341,000 GPR and \$2,449,200 PR). Under the bill, youth aids would total \$90,956,100 (\$88,506,900 GPR and \$2,449,200 PR) annually.

Under current law, total youth aids funding is \$100,790,200 (all funds). Statutory provisions identify how specific youth aids allocations should be distributed, including: (a) youth aids funding appropriated in the biennium for distribution to counties (\$75,826,300 GPR and \$2,449,200 PR); (b) youth aids increases provided under 1999 Act 9 (\$4,000,000 GPR), which are paid to counties according to a three-factor formula; (c) youth aids increases provided under 2001 Act 16 (\$2,106,500 GPR), which are paid to counties according to the three-factor formula and an additional override factor; (d) youth aids funding earmarked for emergency funding and arrest supplements for small counties (\$450,000 GPR); (e) youth aids funding earmarked for counties participating in the corrective sanctions program (\$2,124,800 GPR), (f) youth aids funding earmarked for alcohol and other drug abuse treatment programs (\$1,333,400 GPR; and (g) youth aids increases provided under 2007 Act 20 (\$12,500,000 GPR), which are based on the proportional number of juveniles in correctional facilities during the most recent three-year period.

Repeal the federal appropriation for youth aids created in 2009 Act 28 for receipt of monies from the American Recovery and Reinvestment Act.

[Bill Sections: 634, 1282, 1288, 2999, and 3006 thru 3014]

8. ALTERNATE CARE

PR	\$117,100
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Governor: Modify base funding by -\$65,400 in 2011-12 and \$182,500 in 2012-13 for juvenile residential aftercare (alternate care) to reflect decreasing population estimates. The residential aftercare appropriation funds the costs of care for juveniles placed in residential care centers for children and youth, foster care homes, treatment foster care homes, group homes, and certain other living arrangements. Base funding for the residential aftercare appropriation is \$5,514,900 (based on an estimated average daily population of 56 juveniles in 2010-11). The year-to-date ADP for alternate care (through October, 2010) is 70. Under the bill, the alternate care ADP is projected at 53 in both 2011-12 and 2012-13.

Alternative care placements include placements in residential care centers for children and youth, group homes, treatment foster homes, and foster homes. Alternate care rates are estimated under the bill by taking the actual average rates paid for each type of care for the first five months in 2010, and applying annual percentage rates of increase (5% for residential care centers for children and youth, treatment foster care, and group home placements, and 4% for foster homes) to estimate 2010-11, 2011-12, and 2012-13 average rates. The estimated 2011-12 and 2012-13 average rates and projected ADP of 53 juveniles are then used to calculate the budget recommendation for alternate care.

Under current law, a single rate for each type of alternate care is established by statute, however, facilities providing each type of care vary in the daily rates that they charge. It is then the Department's responsibility to manage these costs within the alternate care budget calculated on the basis of a single, average rate and estimated juvenile populations. The bill would delete

the statutory language, establishing a rate amount for each type of alternate care, and instead provide that the daily cost assessment for these placements be an amount equal to the amount the provider charges the Department. [See Item #3 for the statutory daily rates for the applicable placements.

[Bill Sections: 3004 and 3005]

9. MENDOTA JUVENILE TREATMENT CENTER REESTIMATE

PR	\$62,500
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Governor: Modify statutory provisions to adjust funding by -\$5,400 PR in 2011-12 and \$67,900 PR in 2012-13 in the Department's juvenile correctional services appropriation for payments to the Department of Health Services' interagency and intra-agency programs appropriation, for services for juveniles placed at the Mendota Juvenile Treatment Center (MJTC). Base funding for MJTC is \$1,365,500 GPR and \$2,896,100 PR.

Funding in the bill assumes a need of \$200,200 PR in 2011-12 and \$273,500 PR in 2012-13 for MJTC services. However, as a result of funding adjustments associated with increased state employee contributions for Wisconsin Retirement System (WRS) benefits and health insurance coverage (-\$205,600 PR annually), monies in the first year would be a negative amount. The calculation of retirement savings is based on employee WRS contributions equal to 5.8% of salary. Health insurance cost reductions are based on employees paying an average of approximately 12.6% of total premium costs, compared to the current average of approximately 6% of costs.

[Bill Section: 1273]

10. JUVENILE CORRECTIONAL SERVICES DEFICIT REDUCTION

Governor: Provide that to the extent that revenue generated from daily rates exceeds actual fiscal year costs, all available program revenue balances in the juvenile residential aftercare and corrective sanctions appropriations be transferred to the juvenile correctional services appropriation.

The juvenile correctional services program appropriation funds the operations of juvenile correctional facilities and certain aftercare services provided to juveniles following release from the facilities. The program revenue credited to this appropriation derives from daily rates charged for facility care that are paid by counties or the state for certain serious juvenile offenders. Since the 2000-01 fiscal year, expenditures in the appropriation have generally exceeded revenue, resulting in year-end deficits. Under the bill, any available balances from the aftercare and corrective sanctions appropriations would be transferred to address the deficit. The Department estimates the deficit balance will be \$21.2 million at the end of 2010-11.

Under a separate provision, the bill sets the statutory daily rates for juvenile care. In the Budget in Brief, the Governor indicates that the proposed daily rates for the juvenile facilities

include a \$17 increase in each year to eliminate the deficit the appropriation over the next ten years. [See Item #3, Statutory Daily Rates"]

Add a technical cross reference to Corrections' juvenile correctional appropriations for currently authorized medical assistance case management services provided by the Department of Corrections for certain juvenile offenders.

[Bill Sections: 631 thru 633 and 3002]